Claim 14 has now been amended to depend from claim 10 rather than claim 13. This ground of rejection is therefore rendered moot.

II. Claim Rejections - 35 U.S.C. § 103(a)

Claims 10-12, 14, and 22-31 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Stott et al. in view of Watanabe and Elliot et al. The Examiner argues that it would have been prima facie obvious to one of ordinary skill in the art at the time the invention was made to use a water soluble immunoglobulin supplement, as taught by Stott, in a method of improving weight gain and growth in pigs (including underweight pigs), as taught by Watanabe, in various concentrations and including additives or nutrients, as taught by Elliot.

In response to Applicant's argument that Stott teaches away from the use of a water soluble immunoglobulin supplement in animals post-weaning, the Examiner notes that Stott teaches that an immunoglobulin product "could also be used on a continuous basis as a food supplement for a calf, a mature cow, or any other animal." (Column 24, paragraph 3). The Examiner then argues that the recitation "or any other animal" "would include post-weaning pigs." Applicants respectfully traverse this rejection.

Claim 10 has now been amended to describe a method of improving weight gain and growth in pigs by administering a supplement through the animal's water source comprising a

water stable globulin concentrate which comprise at least 15% IgG.

The general teaching in Stott et al. that their whey-derived product could be used "as a food supplement for a cow of any age or any other type of animal" does not teach or suggest Applicant's very specific teaching of the administration of a water stable globulin concentrate containing at least 15% IgG to a pig post-weaning. More importantly, Stott et al.'s general teaching of the administration of a whey-derived product as a food supplement to any type of animal provides no teaching or suggestion to administer a globulin supplement to a pig through the pig's water source.

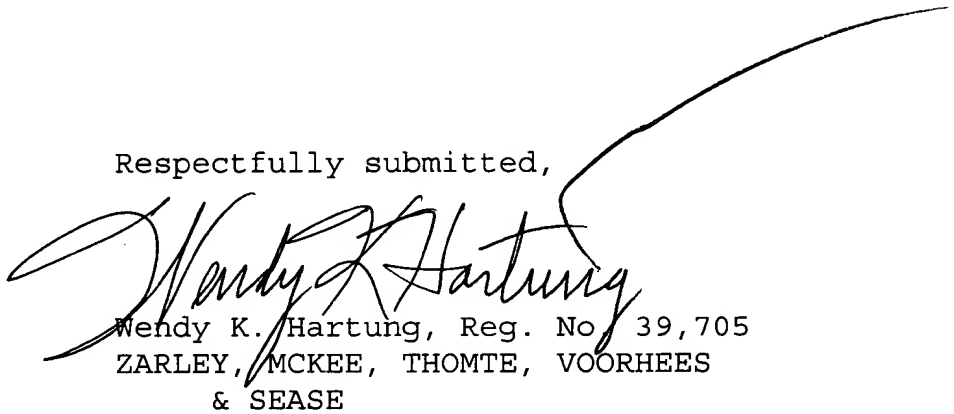
At most, the teachings of Stott et al. provide an invitation for one skilled in the art to experiment with the various dosage ranges, dosing methods, times of administration, additives, as well as types and ages of animals in order to arrive at Applicants' claimed invention. The Federal Circuit, however, has consistently rejected "obvious to try" as a legitimate test of patentability. See e.g. In re Fine, 837 F.2d 1071, 1075 (Fed. Cir. 1988). Further, as set forth in Applicants' earlier response, Stott's teaching that administration of immunoglobulin later than twenty-four hours postpartum "will have very little effect on passive immune levels" further discourages persons skilled in the art from arriving at Applicants' claimed invention.

For all of these reasons, the claims are not rendered obvious over Stott et al. in view of Watanabe and Elliot.

III. Conclusion

For the above-stated reasons, it is believed the application is in a condition for allowance. Allowance is respectfully requested.

Respectfully submitted,



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